

BEFORE THE BOARD OF LANDSCAPE ARCHITECTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
amendment of ARM 24.153.403,) ON PROPOSED AMENDMENT
fee schedule)

TO: All Concerned Persons

1. On April 7, 2005, at 2:00 p.m., a public hearing will be held in room 489 of the Park Avenue Building, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rule.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or who need an alternative accessible format of this notice. If you require an accommodation, contact George Edwards no later than 5:00 p.m., March 31, 2005, to advise us of the nature of the accommodation you need. Please contact George Edwards, Board of Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2329; Montana Relay 1-800-253-4091; TDD (406) 444-2978; Facsimile (406) 841-2305; e-mail dlibsdlar@mt.gov.

3. The rule proposed to be amended provides as follows, deleted matter interlined, new matter underlined:

24.153.403 FEE SCHEDULE (1) Fees ~~for examinations administered on paper must be~~ shall be transmitted ~~by money order or check payable to the Montana state board of landscape architects or third party examination vendor (for examinations).~~ Fees for examination sections administered by electronic means must be paid directly to the council of landscape architect registration boards. The board assumes no responsibility for loss in transit of such remittances. All fees are non-refundable.

(2) The fees for landscape architects are as follows:

(a) <u>Application fee for license by examination</u> <u>(includes original license fee)</u> (examination fee not included)	\$150	\$575
(b) License		50
(c) (b) License renewal	150	500
(d) (c) Late fee	75	100
(e) (d) Duplicate license		35
(f) (e) Examination administration fee	50	100
<u>(f) Proctored examination by other</u> <u>jurisdictions</u>		150
<u>(g) Exam review</u>		50

(3) remains the same.

AUTH: 37-1-131, 37-1-134, 37-66-202, MCA

5-3/17/05

MAR Notice No. 24-153-28

IMP: 37-1-134, 37-66-202, 37-66-301, 37-66-304, 37-66-307,
MCA

REASON: It is reasonable and necessary to amend ARM 24.153.403 to fulfill the Board of Landscape Architects' (Board) statutory requirement of 37-1-134, MCA, to set Board fees commensurate with costs. The Board is also proposing to combine the payment of applicants' examination fees and license fees. The collection and processing of applications, licenses and the related fees will be completed in a single step, instead of two or more separate steps and the combination will ultimately decrease Board expenses.

When the Board was transferred in 2001 from the Department of Commerce to the Department of Labor and Industry, a change was made in the way operating expenses were charged to licensing boards. Prior to the transfer, small boards such as Landscape Architects were not charged for the individual boards' actual operating expenses. This resulted in the larger boards effectively paying for the smaller boards. Following the transfer, all licensing boards, including Landscape Architects, began being assessed for the boards' actual operating expenses. This change significantly and immediately increased the amount the Board is responsible for in paying its own operating expenses.

It is necessary to increase the fees as proposed to adequately cover the daily operating expenses of the Board's licensing and regulatory functions. The Board is currently operating at a negative cash balance and will continue to operate at a loss without increasing the fees as proposed. The Board began fiscal year 2005 with a negative cash balance of -\$12,409.18. Without increasing the fees as proposed, it is estimated that the Board will accrue an additional deficit of -\$18,351.56 by the end of fiscal year 2005, and the resulting deficit will total -\$30,760.74. The proposed fee increases are designed to enable the Board to function in a self-supporting, fiscally responsible capacity.

The proposed combination of the processing of application fees and license fees will decrease the expenses of staff processing time and mailing by enabling the processing to be done in one step instead of two. Additionally, when the licensing examination is proctored for a Montana applicant in another jurisdiction, the examination vendor charges the Board a \$100 fee per proctored examination. Historically, the Board has paid the proctoring fee and not passed this additional cost onto the examinee(s). The Board is proposing to amend the rule at this time to allow the Board to recover the proctoring fees from the examinees.

The Board is proposing to implement a fee for instances where examinees request one of two levels of review of a failed examination(s). If an examinee fails an examination and

requests a review, the examination vendor requires that a Board staff person attend and monitor the review session. In the past, the Board has not charged the examinee for the review, but is now proposing to amend the rule to allow for the charge. This fee will cover the cost for Board staff to schedule, attend and monitor the examination reviews.

Based on the number of persons licensed as landscape architects in fiscal year 2005, the Board estimates that the proposed rule changes will affect approximately 109 currently licensed individuals. The proposed fee increases will affect approximately 12 new applicants taking the examination in Montana, eight applicants taking the examination in other states, and approximately one late-renewing licensee per year, who would be charged the late renewal fee. In summary, it is estimated that all current licensees and all new applicants for licensure with the Board (approximately 130 individuals) will be affected by the proposed fee increases. The Board estimates that the annual aggregate fiscal impact of the proposed fee changes is an increase of \$44,475.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted by mail to George Edwards, Board of Landscape Architects, Department of Labor and Industry, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdlar@mt.gov and must be received no later than 5:00 p.m., April 15, 2005.

5. An electronic copy of this Notice of Public Hearing is available through the Department and Board's web site on the World Wide Web at <http://www.mt.gov/dli/lar>, in the Rules Notices section. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Board of Landscape Architects maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Landscape Architects

administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Landscape Architects, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdlar@mt.gov or may be made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor requirements of 2-4-302, MCA, do not apply.

8. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

BOARD OF LANDSCAPE ARCHITECTS
SHELLEY ENGLER, CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 7, 2005.